

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1798 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 8-1.5-3-3 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The legislative
- 5 body of a municipality may, by ordinance, provide for the control of
- 6 any or all of its municipally owned utilities by:
- 7 (1) the municipal works board;
- 8 (2) a board consisting of the members of the municipal
- 9 legislative body;
- 10 (3) a utility service board established under subsection ~~(e)~~ (f) or
- 11 established before January 1, 1983, under IC 8-1-2-100
- 12 (repealed); or
- 13 (4) the board of directors of a department of waterworks
- 14 established under IC 8-1.5-4.
- 15 **The legislative body of a municipality also may adopt an ordinance**
- 16 **under this subsection to provide for the control of any or all of its**
- 17 **storm water facilities by a board described in subdivisions (1)**
- 18 **through (4). An ordinance granting control of any or all of a**
- 19 **municipality's storm water facilities to a board described in this**
- 20 **subsection may be separate from or combined with an ordinance**
- 21 **granting control of the municipality's municipally owned utilities**
- 22 **to a board described in this subsection.**
- 23 (b) **If, at the time an ordinance is adopted under subsection (a)**
- 24 **to grant control of any or all of the municipality's storm water**
- 25 **facilities to a board described in subsection (a) the municipality has**

1 **a department of storm water management under IC 8-1.5-5, the**
2 **ordinance must specify a procedure for the transition of control of**
3 **the affected storm water facilities from the board of directors of**
4 **the department of storm water management to the board described**
5 **in subsection (a).**

6 (c) The registered voters of a municipality may file a petition
7 addressed to the legislative body requesting that the question of the
8 creation of a utility service board be submitted to a referendum. The
9 petition must be signed by at least the number of the registered voters
10 of the municipality required under IC 3-8-6-3 to place a candidate on
11 the ballot.

12 ~~(c)~~ (d) Within thirty (30) days after a petition is filed, the
13 municipal clerk shall certify to the legislative body and to the county
14 election board that a sufficient petition has been filed.

15 ~~(d)~~ (e) Following certification, the legislative body shall submit the
16 question of the creation of a utility service board to a referendum at the
17 next election. The question shall be submitted to the registered voters
18 of the municipality by placement on the ballot in the form prescribed
19 by IC 3-10-9-4 and must state:

20 "Shall the legislative body of the municipality of _____
21 adopt an ordinance providing for the appointment of a utility service
22 board to operate _____ (Insert name of utility here)?"

23 ~~(e)~~ (f) If a majority of the voters voting on the question vote for the
24 creation of a utility service board, the legislative body shall, by
25 ordinance, establish a utility service board consisting of not less than
26 three (3) nor more than seven (7) members. Not more than two-thirds
27 (2/3) of the members may be of the same political party. All members
28 must be residents of the area served by the board. The ordinance must
29 provide for:

30 (1) a majority of the members to be appointed by the executive
31 and a minority of the members to be appointed by the legislative
32 body;

33 (2) the terms of the members, which may not exceed four (4)
34 years, with initial terms prescribed so that the members' terms
35 will be staggered;

36 (3) the salaries, if any, to be paid to the members; and

37 (4) the selection by the board of a chairman, who shall not be
38 considered the head of a department for purposes of IC 36-4-9-2.

39 ~~(f)~~ (g) The registered voters of the municipality may also file a
40 petition requesting that the question of the abolition of the utility
41 service board be submitted to a referendum. The procedure for filing
42 of the petition and the referendum is the same as that prescribed by
43 subsections ~~(b)~~ (c) through ~~(d)~~ (e)."

44 Page 1, line 16, after "the" insert ": (A) ".

45 Page 1, line 17, delete "." and insert "; or (B) board that
46 controls the municipality's municipally owned utilities
47 under IC 8-1.5-3-3(a) if the municipality has adopted an
48 ordinance under IC 8-1.5-3-3(a) that provides for the
49 control of any or all of the municipality's storm water
50 facilities by the board that controls the municipality's

1 **municipally owned utilities."**

2 Page 2, between lines 16 and 17, begin a new paragraph
3 and insert:

4 "SECTION 6. IC 8-1.5-5-4 IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section applies to all
6 municipalities except a consolidated city.

7 (b) If the legislative body of a municipality adopts the provisions
8 of this chapter by ordinance, a department of storm water management
9 is established and is controlled by a board of directors.

10 (c) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the
11 board consists of three (3) directors. The executive of the municipality
12 shall appoint the directors, not more than two (2) of whom may be of
13 the same political party.

14 (d) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the
15 legislative body shall prescribe, by ordinance, the terms of the
16 directors. However, the legislative body must prescribe the initial terms
17 of the directors so that they will be staggered.

18 (e) The executive may remove a director at any time when, in the
19 judgment of the executive, it is for the best interest of the department.

20 (f) If a second class city has a department of public sanitation
21 under IC 36-9-25, the executive of the city may appoint the members
22 of the board of sanitary commissioners as the board of directors of the
23 department of storm water management. The terms of the members of
24 the board of directors are the same as the terms of the members of the
25 board of sanitary commissioners under IC 36-9-25-4.

26 **(g) If a municipality:**

27 **(1) has a board that controls the municipality's municipally**
28 **owned utilities under IC 8-1.5-3-3(a); and**

29 **(2) has adopted an ordinance under IC 8-1.5-3-3(a) that**
30 **provides for the control of any or all of the municipality's**
31 **storm water facilities by the board that controls the**
32 **municipality's municipally owned utilities;**

33 **the members of the board that controls the municipality's**
34 **municipally owned utilities shall serve as the board of directors of**
35 **the department of storm water management, subject to any**
36 **transition procedure specified in the ordinance under**
37 **IC 8-1.5-3-3-(b). The terms of the members of the board of**
38 **directors are the same as the terms of the members of the board**
39 **that controls the municipality's municipally owned utilities under**
40 **IC 8-1.5-3-3(a), subject to the completion of any transition**
41 **procedure specified in the ordinance under IC 8-1.5-3-3(b).**

42 **(h) A member of the board of directors of the department of storm**
43 **water management who:**

44 **(1) is appointed under subsection (f); or**

45 **(2) is a member of the board under subsection (g) and**
46 **receives a salary as a member of the board that controls the**
47 **municipality's municipally owned utilities;**

48 **is not entitled to a salary for serving as a member of the board of**
49 **directors of the department of storm water management. However, a**

1 member shall be reimbursed for necessary expenses incurred by the
 2 member in the performance of official duties."

3 Page 8, between lines 22 and 23, begin a new paragraph
 4 and insert:

5 "SECTION 19. IC 8-1.5-5-24 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) **This section**
 7 **does not apply to a municipality in which the board is the entity**
 8 **that owns or maintains the municipality's sanitary sewer system**
 9 **under an ordinance adopted by the municipality under**
 10 **IC 8-1.5-3-3(a).**

11 (b) Whenever work on a storm water system (that is combined
 12 with a sanitary sewer system) necessitates the repair or replacement of
 13 all or part of a sanitary sewer system, the entity that owns or maintains
 14 the sanitary sewer system shall assume a proportionate share of the cost
 15 of repairing or replacing the sanitary sewer system.

16 ~~(b)~~ (c) The board and the entity that owns or manages the sanitary
 17 sewer system shall negotiate the division of the costs described in
 18 subsection ~~(a)~~: (b).

19 ~~(c)~~ (d) If the parties cannot agree to a division of the costs, they
 20 shall petition the circuit court of the county where the majority of the
 21 systems are located to divide the costs. The circuit court shall hold a
 22 hearing on the division of costs within sixty (60) days after receiving
 23 the petition. The court shall publish notice of the hearing in accordance
 24 with IC 5-3-1. The decision of the court is binding on both parties."

25 Renumber all SECTIONS consecutively.

(Reference is to HB 1798 as printed February 4, 2003.)

Representative FRIEND